IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15/06/2004

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION NO.14587 of 2004

and WRIT PETITIONS NOS.14588 to 14593, 14703, 14741, 14747, 14796, 14807, 14815, 14819, 14820, 14833, 14834, 14860, 14898, 14899, 14900, 14913 to 14916, 14937, 14950, 14966, 14971, 14973, 14976, 14996, 14997, 150 14 to 15017, 15020, 15037, 15039, 15040, 15041, 15046, 15047, 15053, 15067, 15071 to 15076, 15081, 15084, 15086, 15089, 15090, 15100, 1511 1, 15114, 15115 to 15124, 15131, 15132, 15134, 15142, 15145, 15147, 1 5148, 15149, 15151, 15176, 15178, 15187, 15188, 15197, 15198, 15199, 15206, 15207, 15215, 15222 to 15226, 15229 to 15233, 15235, 15242, 1 5247, 15252, 15257 to 15262, 15287, 15291 to 15293, 15297, 15298, 153 05, 15306, 15309 to 15311, 15313, 15314, 15316, 15323, 15335, 15345, 15347, 15350, 15353, 15357, 15358, 15361, 15363 to 15365, 15373, 1537 4 to 15383, 15390, 15391, 15393, 15397, 15417, 15418, 15422, 15425, 1 5432, 15436, 15437, 15446, 15448, 15470, 15471, 15488, 15489, 15497, 15498, 15499, 15500, 15502, 15505, 15506, 15507, 15514, 15529, 15530, 15531, 15532, 15540, 15543, 15549, 15559, 15560, 15561, 15562, 15571 , 15572 to 15575, 15577, 15583, 15590, 15603, 15606, 15627, 15636, 15 637, 15639, 15648, 15663, 15666, 15667, 15668, 15669, 15670, 15697, 1 5699, 15700, 15702, 15274, 15727, 15730, 15758, 15759, 15778 to 15780 , 15787, 15790, 15792, 15794, 15796, 15802, 15807, 15821, 15822, 1582 5, 15826, 15842, 15844, 15845, 15847, 15852, 15854, 15859, 15878 to 1 5880, 15883, 15888, 15904 to 15907, 15908, 15919, 15920, 15921 to 159 23, 15924, and 15925, 15926 and 15929 of 2004

AND

W.P.M.P.Nos. 17292 to 17303, 17435, 17479, 17551, 17552, 17563, 17573 , 17576, 17577, 17590 to 17592, 17615, 17619, 17683 to 17686, 17698 to 17701, 17718, 17719, 17733, 17750, 17754, 17756, 17759, 17788, 1778 9, 17809 to 17815, 17818, 17847, 17848, 17850 to 17854, 17860, 17861, 17868, 17879, 17896, 17897, 17899, 17902, 17905, 17906, 17908, 17909 , 17918, 17932, 17935, 17938 to 17947, 17955, 17956, 17958, 17970, 17 973, 17975 to 17977, 17979, 18010, 18013, 18026, 18028, 18042, 18044, 18057, 18058, 18068, 18078 to 18085, 18088 to 18092, 18094, 18101, 1 8107, 18113, 18118 to 18124, 18156, 18160 to 18162, 18167 to 18169, 1 8173 to 18182, 18185, 18193, 18202, 18214, 18216, 18218, 18224, 18230 to 18232, 18235 to 18239, 18250, 18251, 18257 to 18259, 18260, 18267 to 18269, 18271, 18275, 18311, 18312, 18313, 18320, 18323, 18332, 18 333, 18334, 18343, 18345, 18365, 18366, 18384, 18397, 18399, 18402, 1 8405, 18406, 18407, 18415, 18430, 18431, 18432, 18433, 18440, 18444, 18455, 18471, 18472, 18473, 18474, 18486, 18487 to 18490, 18493, 1849 9, 18500, 18509, 18524, 18527, 18554, 18565, 18566, 18567, 18579, 185 93, 18597, 18598, 18599, 18600, 18601, 18634, 18636, 18637, 18659, 18 662, 18663, 18668, 18700, 18701,

18725 to 18727, 18745, 18747, 18750, 18763, 18764, 18765, 18782, 18783, 18786, 18787, 18811, 18813, 18814 , 18817, 18821, 18823, 18830, 18860 to 18862, 18866, 18872, 18892 to 18895, 18896, 18907, 18908, 18910 to 18912, 18913 and 18914 of 2004

D. Shylaja .. Petitioner in WP.14587/04

-Vs-

1. The Secretary to Government,
Education Department,
Fort St. George,
Chennai 600 009.

2. The Secretary,
TNPCEE 2004,
Anna University,
Guindy, Chennai 3.

3. The Secretary,
Selection Committee for
admission to MBBS Course,
162, Periyar EVR High Road,
Kilpauk, Chennai 10. .. Respondents in WP.14587/04

Petitions filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus as stated therein.

For Petitioners : Mr.K.M. Vijayan
Senior Counsel for
M/s. La & Law

: Mr.R. Viduthalai

: Mr.S. Ayyathurai

: Mr.K. Doraisami
Senior Counsel for
M/s. Muthumani Doraisami

: Mr.T.R. Rajagopalan,
Senior Counsel for
Mrs. Chitra Sampath

: Mr.S. Nagamuthu for
Ms.M. Vimala

^For Respondent
(Anna University) : Mr.G. Masilamani

Senior Counsel for
M/s.G.M. Associates

For Respondents : Mr.V.R. Rajasekaran
Special Govt. Pleader (Edn)

:COMMON JUDGMENT

In these writ petitions filed by the students seeking admission to M.B.B.S and B.D.S. Course, the primary prayer is for a direction to the respondents for revaluation of the answer sheets of the Tamil Nadu Professional Courses Entrance Examination, 2004, hereinafter referred to as the Entrance Examination and consequently to conduct counselling and allot the students to M.B.B.S and other medical and paramedical courses for the academic year 2004-2005 based on the marks awarded on such revaluation.

2. Before considering the submissions made by the counsel appearing for the petitioners and the learned counsel appearing for Anna University and the Secretary of the Selection Committee for Medical Education, it would be appropriate to notice certain undisputed facts. The admission to professional courses takes place on the basis of marks obtained by the candidates in the relevant streams in the qualifying examination along with the marks obtained by the candidates in the Entrance Examination held by the Anna University. So far as admission to M.B.B.S and other allied courses is concerned, marks obtained by the students in such qualifying examinations in Physics, Chemistry and Biology are taken into consideration. The marks calculated for physical sciences namely, Physics and Chemistry are 100 and 100 marks for biology. Similarly, the total marks available in the Entrance Examination is 100 marks out of which 50 marks are allotted to Physics and Chemistry together and 50 marks for biology. In the Entrance Examination, the method of test is by "Objective Method". In other words, questions are set and the students are to select the correct answer from the answers furnished in the question paper itself. Full mark is awarded to the students, who indicate the correct answer, but no negative marks is awarded for any wrong answer. For the present year, 1 20 questions had been set for Physical Sciences paper namely Physics and Chemistry and 140 questions had been set for Biology paper. As per the usual practice, questions are selected from the question bank. The paper setters, who contribute to the question bank furnish the correct answer along with the question and such correct answer is known as "key answer". After the examinations were held in the month of May, 2004, the University constituted several committees consisting of experts in the particular field to review the questions set and the key answers furnished by the paper setters. After such an exercise was undertaken, the various committees found certain defects in the questions or the answers and accordingly, recommended for deletion of certain questions and also suggested certain correct answers where they did not agree with the answer suggested by the paper setter. For convenience, such revised answers may be described as "revised key answers". Accordingly, as per the suggestions of the committees, it was decided to delete two questions relating to Biology and 13 questions relating to Physical Sciences. Certain "revised key answers" were also suggested and the process of evaluation of the answer sheets has taken place on the basis of the key

answer ultimately approved by such committees. Since the number of valid questions had become less than the questions set, it was also decided to distribute the marks relatable to the deleted questions to other "valid questions". It is not necessary to indicate at this stage the precise reasons for the deletion of the questions or for suggesting revised correct answers as it would be more appropriate to consider those aspects while considering the individual questions and answers concerned. Suffice it to state that the decision of the Committee to delete certain questions is primarily based on the conclusion of the Committee that those questions were inappropriately worded and are likely to create confusion in the mind of the students and in respect of certain questions, there were more than one correct answer and in respect of certain questions, the English version of the question paper did not tally with its Tamil version and some questions, all the suggested answers were incorrect.

3. The main contentions of the learned counsels appearing for the various students are to the following effect:
(i) Many of the questions which had been properly set had been illegally and arbitrarily omitted.
(ii)Some of the questions, which were beyond the prescribed syllabus have not been deleted from the arena of consideration.
(iii) Instead of deleting questions which contain more than one correct answer, mark should have been awarded to the students who had indicated any one of the correct choices.
(iv)The answers suggested by the Committee appointed by the University are incorrect. The petitioners have also questioned the propriety of the Committee in suggesting redistribution of the marks for the deleted questions.
The suggestions of the learned counsels are manifold. Many have submitted that an expert committee should be appointed to review the reports of the various committees. A few have suggested that a fresh entrance examination be held and some have submitted, less with conviction and more with sheer optimism, that Entrance Examination be scrapped and the selection be made on the basis of result in the qualifying examination alone.

4. Before considering in detail the submissions made by the learned counsel for the Petitioners and Respondents, it would be appropriate to refer to the relevant decisions throwing light on the legal aspect involved in such matters. The first and foremost decision appears to be the decision of the Supreme Court in KANPUR UNIVERSITY V. SAMIR GUPTA (AIR 1983 SC 1230). In the said decision, it had been successfully contended by the students before the High Court that some of the key answers furnished by the paper setter were in fact incorrect and the correct answers furnished by the students had not been considered because such answers did not tally with the wrong key answers. One of the questions also related to discrepancy between the English version and the Hindi version. The High Court had directed that marks should be awarded to the students for the questions concerned as answers furnished by the students were found to be correct in preference to the answers suggested by the paper setter. While considering the scope of such matters, the Supreme Court observed as follows:

"16. Shri Kacker, who appears on behalf of the University, contended that

no challenge should be allowed to be made to the correctness of a key answer unless, on the face of it, it is wrong. We agree that the key answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well versed in the particular subject would regard as correct. The contention of the University is falsified in this case by a large number of acknowledged text books, which are commonly read by students in U.P. Those text books leave no room for doubt that the answer given by the students is correct and the key answer is incorrect.

17. Students who have passed their intermediate Board Examination are eligible to appear for the Entrance Test for admission to the medical colleges in U.P. Certain books are prescribed for the intermediate Board Examination and such knowledge of the subjects as the students have is derived from what is contained in those text books. Those text books support the case of the students fully. If this were a case of doubt, we would have unquestionably preferred the key answer. But, if the matter is beyond the realm of doubt, it would be unfair to penalise the students for not giving an answer which accords with the key answer, that is to say, with an answer which is demonstrated to be wrong.

18. If the State Government wants to avoid a recurrence of such lapses, it should compile under its own auspices a text-book which should be prescribed for students desirous of appearing for the combined Pre-Medical Test. Education has more than its fair share of politics, which is the bane of our Universities. Numerous problems are bound to arise in the compilation of such a text-book for, various applicants will come forward for doing the job and forces and counter-forces will wage a battle on the question as to who should be commissioned to do the work. If the State can succeed in overcoming those difficulties, the argument will not be open to the students that the answer contained in the text-book which is prescribed for the test is not the correct answer. Secondly, a system should be devised by the State Government for moderating the key answers furnished by the paper setters. Thirdly, if English questions have to be translated into Hindi, it is not enough to appoint an expert in the Hindi language as a translator. The translator must know the meaning of the scientific terminology and the art of translation. Fourthly, in a system of ' Multiple Choice Objective-type test', care must be taken to see that questions having an ambiguous import are are not set in the papers. That kind of system of examination involves merely the tick-marking of the correct answer. It leaves no scope for reasoning or argument. The answer is 'yes' or 'no'. That is why the questions have to be clear and unequivocal. Lastly, if the attention of the University is drawn to any defect in a key answer or any ambiguity in a question set in the examination, prompt and timely decision must be taken by the University to declare that the suspect question will be excluded from the paper and no marks assigned to it." (emphasis added)

5. The aforesaid decision appears to have been uniformly followed in many subsequent decisions of the Supreme Court and of different High Courts including the Madras High Court. In the light of the aforesaid principle, the contentions raised by the various petitioners have to be examined.

6. In the question paper relating to Biology, the questions bearing No.27 and 33, in the question paper version MA-7 have been deleted on the ground that the questions have more than one correct answer. Even though initially some of the petitioners wanted to contend that the questions have only one correct answer as suggested by the paper setter himself, ultimately the Advocates have fairly conceded that the concerned questions had more than one correct answers as opined by the committee of experts. In respect to Question No.27 reference has been made to page-132 of Biology textbook of Higher Secondary second year which is the approved text book. On going through the relevant pages of the said text book, there can be no two opinion regarding the fact that in respect of Question No.27, there were more than one correct answers. Likewise pages 185, 186, 187, 188 of the very same book clearly indicate that there are more than one correct answers for question No.33.

7. Coming to the Physical Science paper, question No.11 in version code BS6 has been deleted on the ground that such question had two correct choices. Such opinion is bolstered by the discussion at Pages 69 and 70 of the Tamilnadu Higher Secondary Second Year Physics Text book. The learned counsels appearing for the various petitioners also do not challenge such reasoning given by the expert committee. In respect of question No.80 relating to version code BS6, the opinion of the expert committee is also to the effect that in the form in which the question had been put, choice 1 and 2 are correct choices. This opinion is found to be appropriate keeping in view the discussion at page-148 of the Tamilnadu Higher Secondary, second year Chemistry Text book. The learned counsels appearing for the petitioners have also not disputed the aforesaid position. Similarly in respect of version code BS6, Question No.106, the opinion of the expert committee is to the effect that choice 1 and 3 are correct. This opinion is justified in view of discussion at page-349 of the said Text book. The learned Advocates appearing for the various petitioners have not disputed the aforesaid position.

The expert committee has also suggested to delete question Nos.64 relating to version code BS6 on the ground that the questions have got more than one correct answers. However, the learned counsel appearing for some of the petitioners do not accept such opinion and contend otherwise. It is therefore necessary to examine these two questions in depth.

8. The question No.64 (BS6) is to the following effect:

"Q: Outer electronic configuration of four elements A,B,C and D is given below. Which among them, can form multiple bonds?
1. A...[He]2s2 2s3
2. B...[Ne]3s2 3p3
3. C...[Ar]4s2 4p3
4. D...[Kr]5s2 5s3 "

According to the opinion furnished by the expert committee, option-1 and 2 are correct options. The learned counsels appearing for the petitioners however contended that option-1 is the only correct answer. According to

them, as per the Chemistry Text Book prescribed for the Tamilnadu Higher Secondary course, option-1 is the only correct answer, but the expert committee apart from accepting option-1 as one of the correct options has indicated that option-2 is also correct. For the aforesaid opinion, the expert committee has relied upon the text book prescribed for CBSC course.

9. The learned counsel appearing for the petitioners have contended that since as per the information Booklet issued by the University, the questions are based on the syllabus and text book of the Higher Secondary Course of Tamilnadu, the discussion made in the book prescribed for CBSC course cannot be accepted as correct. It is submitted by them that in case of any conflict between the book prescribed for Higher Secondary course in Tamilnadu and in the book prescribed for CBSC, the former has to be preferred in view of the prospectus. In my opinion, such submission made on behalf of the counsel for the petitioners is not acceptable. As a matter of fact, there is no real contradiction between the two books. The book prescribed by the CBSC only furnishes an additional answer to the effect that the element phosphorous coming within the option-2 of the question paper is capable of forming multiple bonds. Therefore, the opinion furnished by the expert committee cannot be characterised as apparently wrong opinion and I am inclined to accept the contention of the University that question No.64 in version code BS6 has two correct answers, viz., Option 1 and 2.

10. Question No.77 in version code BS6 is to the following effect:
"The enthalpy of combustion of butane is -2890 kJ at STP. The amount of heat liberated when 1.12 x 10-2 m3 of butane is completely burnt at STP is: 1.-4445 kJ 2. 1445kJ 3.-2890kJ 4.2890kJ."
The petitioners contend that Option No. 1 to the effect -1445kJ is the correct option as indicated by the original paper setter himself. However, the expert committee of the University has opined "..... the word amount has no sign since the amount refer to unsigned integer." According to the expert committee answer No.2 can also be a correct option. Answer No.2 to the effect "1445kJ" can also be a correct option, because the word amount has no sign. This opinion of the expert committee is also fortified by the relevant pages at P-130-1 31 of the Chemistry Text Book. In my view, since such opinion of the committee is not demonstrated to be incorrect, I accept the opinion of the committee to the effect that option 1 and 2 are correct in view of the manner in which the questions had been framed.

11. The important question is whether such questions should be deleted from consideration or whether marks should be awarded to the students who have indicated any of the correct options. It is the contention of the learned counsels appearing for the petitioners that the question which contains more than one correct answer should not have been deleted from consideration, but credit should have been given to the students who have correctly indicated any of the correct option as distinguished from students who had indicated a wrong option or had not indicated any option at all. The learned counsels have relied upon the decision of the Madras High Court reported in 2003 WLR 799 (V.SAMYA Vs. STATE OF TAMIL NADU AND OTHERS), AIR 1994 Orissa 117 (MISS. UMA PATNAIK AND OTHERS Vs. CONVENOR, MBBS./BDS

SELECTION BOARDcum-PRINCIPAL, SCB MEDICAL COLLEGE) and 1989 All.L.J. 801 (PANKAJ BHALLA Vs. ROHILKHAND UNIVERSITY, BAVEILLY).

12. The learned Senior counsel appearing for the University has however submitted that the University had decided to delete all such questions containing more than one correct option, on the basis of the decision of this Court dated 25-10-2000 in WP.No.13528 of 2000 and other connected matters. He has also submitted in course of hearing, that the Supreme Court decision reported in 1983 SC 1230 (supra) supports his contention. The rival contentions on this aspect require careful consideration.

13. It has been rightly emphasised out by the learned Senior counsel appearing for the university, albeit, in a different context, that the main intention of the entrance examination is not merely passing a particular examination, but to select the more meritorious students. It has to be kept in view that in the entrance examination conducted by the University, there is no negative marking. In other words, even if a student gives a wrong answer, no mark is deducted from other marks obtained by him in respect of the correct answers. The basic contention of the learned counsel for the University is that if more than one correct option is provided in the question, the student will be confused and in all likelihood may not indicate any answer. Such a submission may appear to be reasonable in a case where negative mark is awarded for a wrong answer. However, where no negative mark is awarded, a student need not fear even if he gives a wrong answer and in fact a student is encouraged to give answer by marking the answer which he thinks to be correct without any fear of being penalised for giving a wrong answer. Evidently if a student knows an answer which is one of the possible correct answers, such student would indicate the appropriate answer which he considers to be correct. If the answer indicated is one of the correct answer, the student obtains marks for the said question and a student who indicates a wrong answer or does not indicate any answer at all does not get any credit nor there is any debit. In other words, mark is being awarded to a student who knows at least one of the correct answers and no mark is awarded to a student who does not know any of the correct answers. Since the intention of the examination is to find out a more meritorious student, this approach would obviously advance the main intention behind holding such examination.

This is not to suggest that in objective type of questions containing multiple options as answers, the paper setter should pose such questions which are capable of being answered in more ways than one. While all attempts should be made to eschew such questions before the papers are actually set, if per chance, the question paper contains questions capable of being answered in more ways than one, the subsequent deletion of such question would not advance the cause of basic quest for selecting a more meritorious student. On the other hand, by deleting such questions, a less meritorious student who has indicated a wrong option would receive the same benefit as a student who has indicated a correct option which would not advance the cause of justice and fair play and shall defeat the very purpose for which such examinations are held.

14. As already indicated, the learned counsel appearing for the University has vehemently contended that the earlier decision of this Court in WP.No.13528 of 2000 mandates the University to delete questions containing more than one correct answers. However, after carefully going through the decision cited by the learned counsel for the University, I do not find any observation in the said case which categorically lays down that question containing two correct answers should be deleted. The relevant observation of the learned Judge is to the following effect:

"Though, I am of the opinion that the selection already made need not be interfered with, on the basis of the decision of the Apex Court in (1983) 4 SCS 309, I would like to make the following suggestions to avoid recurrence of the above said lapses, and the respondents are expected to formulate the following procedures also with respect to entrance examination for professional courses in future:-

(i).....

(ii).....

(iii) If any question or multiple choice answer or key answer is found to be defective or any ambiguous question is prepared in the examination, prompt and timely decision must be taken by the respondents 3 and 4 to declare that such wrong question or the same with wrong answer including key answer will be excluded from the examination paper and no marks should be assigned to the same, and the particulars of which also should be published while publishing the final key answers."

15. Similarly there is no such categorical direction in the decision of the Supreme Court in (1983)4 SCC 309 = AIR 1983 SC 1230, to delete questions having more than one correct answers. Rather, the very fact that the Supreme Court in the said case had upheld the decision of the High Court in awarding mark in respect of the Hindi version, answer to which was different from the English version of the question indirectly supports the views expressed by me. The contingency of there being two correct answers arose in the said case on account of the difference in English version and Tamil version of the same question. In the present case the existence of more than one correct answer is on account of the nature and manner of setting the questions.

16. In the decision of this Court reported in 2003 WLR 799 (cited supra), it was ultimately found on the basis of the opinion of the expert that the question had two correct answers, but the University had given credit to the answer which tallied with the key answer provided by the expert committee of the University. The learned single Judge in the said case issued a categorical direction that credit should also be given to the student who had indicated the other correct option. It is of course true that there is no reference by the learned Single Judge to the decision of the Supreme Court in Kanpur University and others Vs. Samir Gupta and others (cited supra). However since there is nothing categorical in the Supreme Court decision to the contrary, it cannot be said that the ratio of the decision of the learned Single Judge is not applicable.

17. In 1989 All.L.J 801 (PANKAJ BHALLA Vs. ROHILKHAND UNIVERSITY, BAVEILLY) it was observed by the Division Bench as follows :-

" . . . So we are of the opinion that both the options, namely, 2 and 4 are to be accepted as correct. Accordingly, those petitioners who have opted for alternative No.4, are also entitled to 3 marks instead of one negative mark just like those of the candidates who have opted for key answer (i.e. alternative NO.2)."

18. In AIR 1994 Orissa 117 (cited supra), Justice Pasayat as His Lordship then was, speaking for the Division Bench had also taken a similar view and had directed that in respect of questions containing more than on correct answer, credit may be given to the students indicating any one of the correct answer. Of course a caveat had been entered by His Lordship in the said decision emphasising that the paper setter should try to avoid setting such questions which contains more than one correct answers.

19. There cannot be any two opinion about the fact that the paper setter should avoid to set questions which have more than one correct answers. But, if such mistake is committed by the paper setter and the question paper actually contains such questions, the student who correctly answers by giving any one of the correct answers should not be penalised by not getting any mark for his correct effort and being treated at par with the student who had given incorrect answer in respect of the very same question. If such a question is deleted after the examination is over, a student who knows one of the correct answers would be penalised by being deprived of mark, where as a student who has given the incorrect answer would benefit by such deletion. It is therefore, directed that questions containing more than one correct answer, should not be delet ed and credit should be given to the candidate who has indicated any of the correct answers.

20. Three questions have been ignored on the basis of the opinion of the expert committee to the effect that there was discrepancy in the English and Tamil Version. Question No.20 in version code BS6 is one such question. There is no dispute that as per the English version the correct answer is Choice No.1. In the English version, the relevant expression is "Relative Permitivity of the die-electric of the medium is increased by two times". It is not disputed that the Tamil version of the question does not contain the equivalent word for " Relative Permitivity", but contains the word "Relative Permeability". It is also not disputed that if the Tamil version is accepted, choice No.2 would be the correct answer. In view of the aforesaid discrepancy in the nature of question in the English and Tamil Version, the University has deleted the question. Some of the learned counsels appearing for the petitioners have contended that the Tamil version can be ignored and credit should be given to those who had given the correct answer as per the English version. This suggestion, if accepted would place the students who studied in Tamil Medium and had given the answer after going through the Tamil version at a disadvantage for no fault of theirs. On the other hand, some of the learned counsel appearing for the petitioners suggested that following the decision of the Supreme Court in AIR 1983 SC 1230, credit may be given to such of the students who had relied upon the Tamil version and had given the choice as No.2. It is true that in the aforesaid Supreme Court case, it was found that there was difference in the English version and the Hindi version of the question and in the facts of the said case, the High Court accepting the

contention of some of the candidates had directed that the marks may be awarded also in respect of the Hindi version. Adopting such a course would not be feasible in the present case as it is not possible to know which student had given the option 2 as correct answer after going through the Tamil version of the question. In the answer paper, the students are not required to indicate as to whether they have given the answer on the basis of the English version or Tamil version and it would be next to impossible to now find out which student had given option-2 as the correct answer by going through Tamil version. The resultant situation is obviously not a happy one. However, no ideal solution can be found out in matters and it would be appropriate to delete the said question.

21. Question No.29 in version code BS6 has also been directed to be ignored on the basis of material difference in the English version and the Tamil version. As per the English version question, the relevant expression is "if the time rate of change of current is doubled in a coil", whereas in the Tamil version the relevant portion of the question is, "fhyk; khWk; tPjk; xU RUsps; ,U kl';fhdhy;" which means " The time is changed by two times". According to the experts, the question in the Tamil version could be interpreted in different ways. Even though some of the counsels for the petitioners submitted that the difference in the Tamil version and omissions of certain words is very inconsequential, I am not inclined to accept the submission of the learned counsel for the petitioners. It is also to be noted that admittedly, there is no any correct answer with reference to the Tamil version of the question. The suggestion for deleting the question is therefore more appropriate.

22. Question No.94 in version code BS6 has been directed to be deleted by the expert committee on similar ground. In the said question, even though there is no difference in the question indicated, in the answers suggested, there is material difference according to the expert committee. As per the English version option-4, which is the correct answer, is 2 methyl-2-propanol and 2-methyl propene. However in the Tamil version of the question paper option-4 in the possible answer is 2 mythyl-2propanol and 2-mythyl propane.

It is not disputed by the petitioners that the words Propene and Propane represent two different compounds. Therefore, option 4, suggested in the Tamil question is obviously incorrect answer. The contention of some of the learned counsel appearing for the petitioners that these difference could not have misled any of the Tamil student as three other option given were obviously incorrect cannot be accepted. The suggestion of the committee to ignore these question is accordingly found to be reasonable.

23. Question No.76 in version code BS6 is to the following effect:
Q: The change in the value of enthalpy of formation of ammonia is 1 . -45.5 kJ 2.+45.5kJ 3.-91kJ 4.+91kJ.
Such question has been directed to be deleted on the basis of the following opinion of the expert committee:

"Construction of the question is wrong. The way in which the stem of

the question constructed is not correct. According to the concepts of thermo chemistry it should have been "The enthalpy of formation of ammonia is". Similar format is given in Higher Secondary second year Tamilnadu Chemistry +2 Textbook in page No.129. The question in present form may mislead the candidate while choosing the correct answer."

The learned counsels appearing for the petitioners have submitted that the expression 'Enthalpy of formation ' itself refers to 'change' and the addition of expression, change in value of enthalpy does not make any difference to the question. The expert committee does not suggest that the question in the present form can give rise to any other answer except option-1 admittedly indicated by the paper setter as being the correct answer. The defect in the expression has not materially altered the nature of question. Therefore, the question should not be deleted and should be evaluated as per the "key answer" provided by the paper setter.

24. Question No.87 in version code BS6 had been ignored as according to the expert, none of the four options given in the question paper is correct. The question that the suggested answer is to the following effect:
"Q: What will be the pH of the buffer solution containing 0.2 mole of acetic acid and 0.1 mole of sodium acetate per litre? The dissociation constant of acetic acid is 1.8 x 10-5
1. 5.674
2. 4.474
3. 6.874
4. 3.274."

According to the minutes of the expert committee ".... none of the four answers is correct. According to the correct image of the significant figures, the answers could be truncated at 4.4." At the time of hearing, the learned Senior counsel for the University has filed a further typed set. The further opinion is furnished as below:
"None of the four answers is correct. The correct answer for the problem is 4.444."
As per the "key answer" furnished by the paper setter, 2nd option 4.474 is correct. Even assuming that there was a printing mistake, the fact remains that the option No.2 was not the correct answer. The opinion of the committee cannot be said to be demonstrably incorrect.

25. Question No.88 in version code BS6 has been discarded by the expert committee on the ground that none of the four answers is correct. Some of the counsel appearing for the petitioners submitted that option No.1 to the following effect should have been accepted as correct answer.
Q: Unit of equivalent conductance ^c is
1. Sm2 gm/equivalent.

Similarly some other counsel have submitted that option-4 to the following effect should have been accepted as correct answer:
4. Sm2 gm equivalent.
As per the opinion of the expert, the correct answer is "Sm2 / (g equivalent) or Sm2 (g equivalent)-1 .

It is not disputed by the learned counsel for the petitioners that answer as indicated by the experts is the correct answer, but the different manner of expressing the answer in the question could have been ignored. However, I do not find any sufficient reason to discard the opinion of the expert committee and accordingly the answer has been rightly deleted.

26. Question No.116 in version code BS6 has been ignored by the expert committee on the ground that structural formula given as choices are all incorrect. According to some of the petitioners, the option-1 being the nearest could have been accepted. The opinion of the expert committee is that the option-1 would be correct if this would have been printed as CH2COOH instead of CH2COO
| |
NH2. NH3

The opinion of the expert cannot be characterised as demonstrably wrong and the question therefore has been rightly deleted.

27. Question No.119 in version code BS6 has been deleted on account of the following opinion of the expert committee:
"In this question the steps in the stem between B.....C one reagent namely acetyl chloride is not given, without this reagent, the chemical reaction will not proceed further. Hence the question is incomplete. It will be very difficult for the candidates to assume reagents and answer the question. Hence, the question is not complete. Higher secondary second year Tamilnadu Chemistry +2 textbook in page No.216/260."

Even though some of the learned counsel appearing for the petitioners have raised faint murmurs of protest, I am not in a position to discard the opinion of expert as arbitrary or irrational and therefore the question has been rightly deleted.

28. Some of the petitioners have raised dispute that question 129 in version code MA7 relating to Biology should have been ignored as the said question which was beyond the Tamilnadu State Board Higher secondary course Biology Book. The question is to the following effect:

"Q: In diabetic patients level of blood sugar is more than (1) 12mg/lit (2) 120mg/lit (3)0.012g/dl (4)0.12g/dl."

Some of the petitioners have also contended that even though the question is not to be ignored, option-2 should be considered as the correct answer instead of option-4 as has been done by the expert committee. The contention of the petitioners is to the effect that the Biology book for the higher secondary school only states that in diabetic patients level of blood sugar is more than 120mg and the suggested answers which have given certain weight in a given volume of liquid have not been indicated in such book. Some of the petitioners have suggested since 120mg has been indicated in answer No.2 same should have been accepted. The expert committee's opinion is to the following effect:
"It is a mistake that the sugar level expression is given without unit

in the text book.
Any solid dissolved in liquid has to be necessarily expressed the amount of solid (in weight unit) dissolved in a given volume of liquid (Volume unit). With out proper units if it is given only in weight unit the question comes in what quantity of liquid it is dissolved?
However the question formed and the answer provided are correct, Particularly answer number 4(0.12g/dl) is the correct answer. It is for the students to know the unit for expression of blood sugar level value in a diabetic patient. Therefore we stand by the correct key no.4 (Page No.363 Tamilnadu State Board Higher Secondary Course Biology Book revised Edition 2000)
If option 2 is also considered as one of the correct answer, it amounts to suggesting that "in diabetic patients level of blood sugar level is 12mg/dl, which is 1/10th of the actual value."

While it is true that the level of blood sugar is merely described in terms of weight in the text book, in the context of the answers given, option-2 can never be considered as correct answer. One can understand if the suggested answer was merely "120mg" which expression being in consonance with the textbook could have been accepted as one correct option. However the answer in option-2 is 120mg/lit. If this is accepted, as opined by the expert committee, the level of blood sugar would not be high, but would be abnormally low. The opinion that fourth option is the correct option which had also been indicated by the original paper setter is obviously the correct answer and has been rightly taken into account while allowing the question.

29. It has been contended by some of the petitioners through their counsel that the answer given in relation to question No.18 in version code BS6 is incorrect. The petitioners have tried to bolster up their arguments by making reference to the textbook prescribed for the higher secondary course in Tamilnadu. However, I do not find anything categorical in the said textbook which has the effect of demolishing the reasons given by the expert committee. The opinion of the expert committee appears to be correct.

30. Some of the counsels for the petitioners have contended that question No.45 in version code BS6 should have been ignored as the same is out of syllabus. However, the expert committee has categorically come to the conclusion that the aforesaid question is within the syllabus as pser the State Board Higher Secondary Physics book revised edition,2000 Page-217.

On going through the relevant portion, I do not find any reasons whatsoever to take a different view. There is no dispute that the suggested answer is correct relating to the said question.

31. It is also contended by some of the petitioners that question No.30 in version code BS6 is a wrong question. The said Question is to the following effect:
"Q: In a Pentaphase AC generator the phase difference between the emfs and current in the coil is (1)120o (2)72o (3) 90o (4) 160o."

The expert committee's opinion is to the following effect:
"The phase difference between emfs and current is given as 120o in the book for a three-phase generator (=360o/3) and the penta phase is a natural extension only. Penta phase is 5 phase so phase difference is 360o/5 = 72o. Hence the correct answer is No.2. Page No.199, last para.(Tamilnadu State Board Higher Secondary Course Physics Book revised Edition 2000)"

It is contended by some of the petitioners that if same logic would be applied, the difference between the emf and current in coil should be 180o and not 90o. After giving anxious consideration to the submissions made and after going through the relevant pages of the book, I do not think there is any scope to differ from the opinion of the expert and the question has been rightly considered and evaluated.

32. The petitioners have challenged the question No.8 in version code BS6 on the ground that the question could not have been answered without the aid of Log Table and the question should have been ignored. The expert committee's opinion is to the following effect:

"To find the value of Tan-1 (1.6) it is observed that physical table / calculator is not necessary as this value lies between 45o and 60 o. Students are supposed to be familier with the value of Tan 45o and 60o."

I do not find anything substantial in the submissions made by some of the learned counsel for the petitioners to come to the conclusion that the opinion of the expert committee is manifestly incorrect. The question has been rightly considered.

33. Some of the petitioners have challenged the validity of question No.12 in version code BS6 on the ground that the question is misleading and it is not indicated as to the manner in which two bar magnets have been placed. The expert committee opinion is that the question is within the syllabus and there is no confusion in the question. Nothing substantial have been pointed out by the learned counsel for the petitioners to come to any different conclusion.

34. In respect of question No.22, in version code BS6, some of the petitioners contended that the correct answer should be option No.2 as it is not indicated that the diameter of the metal wire would undergo any change. The expert committee's opinion is to the following effect:
"Length of a metal wire is 10cm.
The wire is stretched to 40 cm.
Effect of Stretching a wire on its resistance:
If the length of a cylinder is stretched its diameter will decrease.
Hence the area of cross section will decrease. The volume of the wire before and after stretching are the same. By stretching the wire from 10cm to 40cm the length of the wire is increased by 4 times, hence the area of cross section will decrease by 4 times.
Resistance = (specific resistance) x (length of wire)/ area of cross

section of the wire.
Hence the resistance of the wire is increased by 16 times. (Original resistance before stretching is 2ohms, resistance after stretching is 32 ohms). The correct answer for this question is choice 4.

Higher secondary second year Tamilnadu Physics +2 Textbook in page no.131.

I hardly see any substance in the contention of the petitioners on this aspect. The question has been rightly taken into account.

35. The petitioners have also contended that in question No.99 in version code MA7, option-2 and option 4 should be treated as correct whereas according to the experts committee opinion, the option-4 is to be considered. The question is to the following effect:
Q: Which is rarely seen in animals?
(1) Aneuploidy
(2) Monoploidy
(3) Diploidy
(4) Polyploidy
The opinion of the expert committee is to the following effect:

"Monoploidy is rare in animals, however it is seen in male honeybees. As for polyploidy it is commonly noticed in plants and it is rare in animals. (Page no.279 Tamilnadu State Board Higher Secondary Course Biology Book revised Edition 2000). Since monoploidy is also seen in male honeybees as given in the textbook, Monoploidy can be considered as a distraction. Therefore we consider that polyploidy (Ans No.4) is correct."

The expert committee have opined that since monoploidy is seen in male honeybees which can also be considered as "Animal" and Polyploidy is normally noticed in plants and it is rare in animals and option 4 is the correct answer. As per the key answer provided by the paper setter, option-4 is also the correct answer. Since the paper setter and the Committee have come to same conclusion, it would not be appropriate to take a different view. The reason given by the expert committee appears to be justified. The contention of the learned counsel for the petitioners cannot be accepted.

36. Question No.105 in version code MA7 is to the following effect:
Q: Highly Concentrated mineral in the cerebro-spinal fluid is (1) Pottasium (2) Sodium (3) Magnesium (4) Chlorine.

The petitioners contend that option No.4 is the correct answer. It is not in dispute that the paper setter himself had indicated option No.4 as the correct answer. The expert committee has however suggested that option-3 is the correct answer.

37. In the counter affidavit, and in the opinion of the committee it

has been highlighted that chlorine being a gas in its natural form cannot be considered as "Mineral" and even though Potassium and Sodium can be classified as minerals those are not stable in free form and they react violently and become other compound, the only other choice is Magnesium. They have referred to textbook P-239 in support of their opinion. The petitioners have referred to pages 196-196 of the very same book in support of their contention that the only correct answer is option-4. At page 196, while considering the minerals in Serial No.9, discussion has been made relating to Chlorine.

38. A perusal of the relevant pages as indicated makes it crystal clear that the question has been set by the paper setter with reference to the discussion relating to chlorine. In fact the exact expression is found. At page 195 of the book, while discussing about the minerals salts it is indicated therein "minerals salts by their presence in small quantities serve to regulate the different metabolic activities. For the normal functioning of the body the following mineral salts are important." Thereafter, the textbook proceeds to discuss about Calcium, Phosphorous, Magnesium, Potassium, Sodium, Iron, Iodine, Sulphur and Chlorine. The entire discussion relating to Magnesium is as follows:
"Magnesium: Magnesium is very essential for the conduction of nerve impulses and for the normal maintenance of ionic balance. Various nuts, soyabeans and some sea foods are relatively rich in magnesium. Absence of magnesium results in nervousness, retarded growth and irregular heart beat."

The entire discussion relating to Chlorine is as follows:

"Chlorine: It is found in the body as chloride ion in combination with sodium. It is highly concentrated in the cerebro-spinal fluid (emphasis added). It is essential for water balance. The chief source of chlorine is sodium chloride (common salt).

The relevant discussion relating to cerebro-spinal fluid (CSF) (contained in p-239) upon which reliance has been placed by the committee is to the following effect:
This fluid is a clear, colourless liquid secreted by the choroid plexus of the lateral, third and fourth ventricles of the brain. The total volume of the fluid in man varies from 100 to 150 ml and the rate of formation is about 20 ml per hour. CSF is a special filtrate of blood plasma, but it differs from the blood plasma in its composition. Proteins, amino acids and cholesterol are much less in CSF than plasma. Chloride and magnesium are more in CSF than plasma. Sodium and bicarbonate are same as in plasma and glucose is almost same or less in CSF than plasma.

The committee has relied upon the aforesaid discussion in the text book and had suggested that option-03 relating to Magnesium is the correct option. The main reasoning of the committee seems to be that Chlorine which is always found as a gas in a natural form is not a " mineral" and therefore cannot be considered as a correct option. It is further indicated that even though Potassium and Sodium are minerals, such minerals are highly combustible in their natural form and they form some other compound and by this process of elimination Magnesium being only other mineral can be considered as correct

answer. They have also emphasised "Chloride and Magnesium are more in CSF than plasma". It is further emphasised that since the option is Chlorine and not Chloride and Chlorine is not a mineral, option cannot be the correct option.

39. In my opinion, the committee members have missed the entire tenor of the question in their pursuit of arriving at a perfect conclusion. First of all, it has to be kept in view even the paper setter himself had indicated, the fourth option, viz., Chlorine as the correct answer. It is obvious that the paper setter has set the question keeping in view the discussion relating to Chlorine at Serial No.9 relating to the subjects discussed under "mineral salts." The sentence referred to by the committee at Page-239 only indicates Chloride and Magnesium are more in CSF than in plasma. In other words, while comparing between CSF and Plasma, it is indicated that Chloride and Magnesium are more in CSF than in Plasma and it is nowhere indicated therein that Magnesium is "highly concentrated" in CSF. It is of course true that chlorine in its natural form is gas, but the chlorides consisting of chlorine and some other substance are obviously minerals. Similarly there cannot be any doubt that Magnesium found in CSF is not Magnesium in its natural or pristine form, but Magnesium as a part of any other salt. Similarly chlorine is found as a part of salt. The entire discussion on the various minerals salts relates to discussion relating to Magnesium, Chlorine , Sodium , Potassium etc., It is evident that the committee in its search for the perfect answer has missed the obvious intention of the paper setter. Since the paper setter himself had indicated "Chlorine" as the answer, unless such answer is found to be entirely incorrect, such answer should not have been overlooked by the committee on the basis of some fine distinction. If Magnesium is considered to be the answer, then there is no reason why sodium and potassium should not be considered as answer. When a specific answer is available in the prescribed textbook which is not shown to be incorrect and when it is obvious the paper setter himself has intended that such answer is to be given, it is not appropriate to suggest that there is some other correct answer on the basis of refined process of rationalisation. It is also to be remembered that the question was relating to Zoology and the students are expected to answer questions in that background and are not supposed to deal with the question as if it related to keeping in view with the fine distinction pointed out by the expert committee. With all respect to the committee members, it is apparent that the obvious correct answer has been ignored by them. There cannot be two opinion about the fact, the so called minerals like Magnesium, Sodium or Potassium are not found as such, but are found as minerals salts. There is also no dispute that neither Magnesium nor Sodium nor Potassium can be absorbed by body unless it is taken as a "mineral salt". It is further noticed that the committee in its opinion has not at all referred to the pages 195-196 of the Biology textbook nor they have indicated that the discussion in those pages is obviously erroneous. Chapter-I in the said book relates to Human Physiology 1.1.1 at page 192 indicates about various food constitutes which are classified as "Protein, Carbohydrates, Fats, Mineral salts, Water and Vitamins" (emphasis added). while discussing about the mineral salts, reference has been made to Calcium, Phosphorous, Magnesium, Potassium, Sodium, Iron, Iodine, Sulphur and Chlorine. The expression "minera l" in the question must be obviously understood as minerals salt. In view of the above, I am of the firm opinion

that the recommendation of the committee on this score cannot be accepted particularly when committee has not given any reason to discard the discussion

contained in Pages 195-196 and also for overruling the key answer provided by the paper setter himself and clearly discernible at page 196 of the approved text book.

40. The question at No.117 of version code BS6 has been disputed by the students on the ground that all the suggested answers are incorrect. The opinion of the expert is to the effect that there is no error in the question and it is very much in the syllabus. However, they have not indicated about the correct answer. The paper setter seems to have suggested that the answer contained in option-3 is the correct answer. In the prescribed book the actual Chemical formula of the compound has not been given. However, the learned counsel appearing for the petitioners referred to various standard textbooks on Organic Chemistry and contended beeswax are in fact contains myricyl palmitate and the Chemical formula of the compound is C15H31CO2C30H61 which is equivalent to CH3(CH2)14 COOC31H61. For the aforesaid purpose he has referred to Organic Chemistry, Volume One, Fifth Edition by I.L.Finar at P-293. There is no dispute that the aforesaid book is considered as a book of high standard even at the stage of graduation level. In Advanced Organic Chemistry by Arun Bahl and B.S.Bahl, 2003 Edition, at P-659, it is observed "Beeswax: It is obtained from the honeycomb of bees. It is composed of the esters ceryl myristate, C13 H27-CO-O-C26H53, and myricyl palmitate,C15H31-CO-O--C30H61 among others. Beeswax also contains about 20 per cent of straight-chain alkanes such as n-C21H44 and n-C29H60." The formula of myricyl palmitate is thus indicated as C15H31-CO-O-C30H61.

In the textbook of Organic Chemistry by E.L.Soni and H.M.Chawla,(27 th Edition), which is also considered to be reliable authority on the subject at P-2.305, it has been stated as follows:
Waxes: These are also esters of higher fatty acids. They, however, differ from oils and fats which are glycerides of higher fatty acids in being esters of higher homologues of monohydric alcohols, e.g., Name: Beeswax, Chemical Name: Myricyl Palmatate, Formula: C15H31-CO-O-C30H61 .

41. The learned counsel appearing for the University on the other hand has pointed out to the textbook of Organic Chemistry by K.S. Tewari, S.N.Mehrotra and N.K. Vishnoi at P-723, wherein it is indicated as: "Beeswax. It is myricyl palmitate (C15H31COOC31H63) an ester of palmitic acid, C15H31COOH and myricyl alcohol C31H63OH."

42. In the Chemistry Higher Secondary second year book published by the Tamilnadu Textbook Corporation, it is indicated at P-431 as: " Waxes are esters of higher fatty acids and alcohols of high molecular weight like cetyl alcohol, C16H33OH, ceryl alcohol, C26H53OH and myricyl alcohol, C31H63OH. Bees wax contain myricyl palmitate." However the Chemical formula of the compound myricyl palmitate has not been given in the said book. It is also to be noted that in the minutes of the experts, it has been indicated "the Tamil version of the textbook does not have a formuloa for myricyl palmitate....." Even though in one of the books, the Chemical formula

given tallies with the formula in Option No.3, there are three other textbooks where the formula of the compound is different. It is of course true that in every textbook, it is indicated that beeswax contain myricyl palmitate. But, it is also indicated in such textbooks that it also contains certain other materials. However, the question indicates as if Beeswax is myricl palmitate alone. Even assuming beeswax is myricyl palmitate alone, the Chemical formula of the compound is given in conspicuously different manner in the different textbooks. The formula which is indicated now is option-3 does not appear to be the formula which has been indicated in Organic Chemistry by I.L.Finar, Advanced Organic Chemistry by Arun Bahl and B.S.Bahl, and The Textbook of Organic Chemistry by P.L.Soni and M.M.Chawla (27th Edition). In such view the matter, the answer to the question being highly disputed as per the different textbooks and there being no categorical answer in the textbook prescribed for higher secondary course, the safer course would be to delete the question.

43. Some of the learned counsels for the petitioners have submitted that since a large number of questions have been deleted from consideration and disputes have been raised relating to many questions, the entire entrance examination itself may be cancelled and a fresh examination should be directed to be held in order to prevent prejudice to the students. It has been contended that because of the confusions in the questions, many students must have devoted a lot of time to untangle the questions with a view to find the proper answer.
This remedy suggested by Mr.K.M.Vijayan, learned Senior counsel, would be obviously worse than the disease sought to be cured. While it is true that the question paper contains some avoidable mistakes, there is no guarantee that such mistakes would not recur in future if a fresh examination is held. Moreover, the students, who must have give a sigh of relief after finishing the qualifying examination and the present entrance examination or even some other examinations, would not be in a proper state of mind to face a fresh examination. Apart from the above, if a fresh examination is directed to be held, the inevitable result would be a further delay in finalising the process of selection and admission to the professional courses giving rise to further complications as the parent authorities like Medical Council Of India may not approve such delayed admission. Such submisssion is not at all acceptable.

44. Some of the learned counsels have submitted that since such examinations are being held every year and such mistakes are occurring often and the mistakes appear to be more in number in the present year, the marks obtained in the entrance examination may be altogether ignored and the selection should be made through the marks obtained at the qualifying examination.

It is obvious that the concept of common entrance examination has been introduced with a view to bring some parity among the students appearing in different qualifying examinations such as the Higher Secondary Examination conducted by Tamil Nadu Board, CBSC Examination, ISC Examination etc.. As the standard of marking in such examinations varies significantly, with a view to remove any possible disparity, the common entrance examination has been introduced. If the common entrance examination is done away with in the present year, the basic structure of the method of selection would be

destroyed. Therefore, I do not find any justification to accept such submission.

45. The learned counsels appearing for the numerous petitioners have almost in one voice reflected their anxiety regarding the manner in which the marks relatable to the deleted questions are being redistributed. Many of them have suggested that in respect of deleted questions which are now ultimately found to be not acceptable, marks should be awarded to the candidates. However, in view of the observation of the Supreme Court in 1983 SC 1230 and observation of this Court by Justice K.Govindarajan in the unreported Judgment dated 25-10-2000 in WP.No.13528 of 2000 and other connected matters, the deleted questions should not be evaluated. The University has however distributed the marks relating to the deleted questions among the other questions. The revised values calculated by the University would no longer hold good as some of the deleted questions are now required to be considered and marks to be given to the candidates. Some of the Advocates for the petitioners suggested that the marks obtained on the basis of the original value of questions may be taken into account as such without proportionately increasing the marks for the deleted question. Such suggestion also would not meet the ends of justice as rightly pointed out by the learned counsel for the University. The authorities wanted to maintain a balance between the marks obtained at the qualifying examination, that is to say at the Higher Secondary level and marks obtained at the entrance examination. He has therefore submitted that in order to maintain the relative proportion between the marks at the qualifying and the entrance examination, it has been decided to redistribute the marks. However, it is seen that the manner in which it has been done has apparently given some advantage to the students who had correctly answered less number of questions at the entrance examination as compared to the students who had correctly answered more number of questions. The learned Senior Counsel for the University has placed strong reliance upon the Judgment reported in AIR 1997 AP 28 (Chalamalasetty Satyendra Kumar Vs. Govt. of AP) However, in the said decision, the method adopted is slightly different. In the said case that after deletion of the 38 questions, the marks obtained from the balance 162 questions was increased to the level of 200. Since each answer fetched one mark and the marks were raised to the level of 200, percentage of marks obtained obviously remained the same. A similar procedure can be adopted in order to avoid any artificial disparity. Therefore, the University is now required to find out the number of correct questions which are to be evaluated and after awarding marks to the students as per the original value of each question, it is required to find out the proportion or percentage with reference to 50 for the particular stream. For example, if the correct number of questions are 138 and a person has answered 130 questions correctly out of these 138, after valuation at the rate originally indicated, percentage of marks obtained by such person vis-a-vis the total number of correct questions is to be calculated and the ultimate value with reference to 50 is to be credited to such person's account in the particular stream. The learned counsels appearing for the parties have no serious objection to this formula.

46. The learned counsels appearing for the various petitioners had contended at the threshold that in order to untangle the controversy in a

satisfactory manner, the various disputed questions should be referred to an expert committee consisting of the various experts of the field to be selected by the High Court, so that the unnecessary controversy can be avoided.

47. The University on its own had appointed various committees to go into the questions and certain suggestions have been made. Appointment of any other committee consisting of some other experts would not be justified. Apart from the fact that such an endeavour would be time consuming thereby prejudicing the entire student community, the ultimate result may not be fruitful. The main dispute relating to majority of the question is as to whether questions containing more than one correct options should be deleted or whether marks should be awarded to the students who have given the correct answer. By and large the opinion of the committee that many of the questions had more than one correct answers appears to have been accepted by the learned counsels appearing for the petitioners and the controversy on this aspect as petered down to two or three questions. Other controversial questions have been discussed with reference to the prescribed text books. In the peculiar facts and circumstances, I do not fit this is proper case where any further time or energy should be wasted in seeking the opinion of the other experts.

48. A connected question has arisen as to whether the revision of marks as per the present decision should be confined to the petitioners alone. Even though some of the counsels suggested that the the answer papers of the petitioners alone are required to be reviewed, I do not think that such a submission would advance the cause of justice. It is of course true that in many of the reported decisions, the individual petitioners who come to the court had got what ever benefit was available under the Judgment. However, it is seen in most of those cases, the matter was decided by the Court when Selection of the candidates was already over and admission had already taken place. In the present case, by the time the writ petitions were filed, the merit list had not been finalised and by an interim order, the committee has also been directed not to prepare merit list of students. In such view of the matter interest of justice requires that all the answer papers should be re-valued keeping in view the direction given in the judgment, so that even if a student has not filed any case, the ratio of the decision would be applicable. Even though the other students have not been heard, the respondent have strongly espoused their cause with a vowed sincerity and vigour and what ever those absentees students could have said have already been emphasised by them. As a matter of fact, even while the validity or invalidity of the individual question or answer was being considered, the counsels for petitioners in other cases were at times opposing submission of the particular petitioner and were supplementing the submissions of the learned senior counsel for the University where ever necessary. At the stage when the writ petitions filed, it would have been impossible for the petitioner to implead all the candidates. If the petitioners wait till the final selection is made and admission process begins for impleading the successful candidate, by the time the writ petition would be taken up for disposal, the process of admission would be over and the writ petitions would otherwise be rendered infructuous. In the peculiar exigencies of the case, it is impossible to postpone the hearing of the case and also impossible to

implead all the other students. Since the principle evolved by the University is being challenged and considered and the University has been heard at length, it can be safely said that there is no necessity of giving any other opportunity of hearing to the students who are not before this Court.

49. The matter can be looked at from another angle. It is not disputed that along with the question the paper setters furnish the "Key answers". After the examinations are over the University reviews the "Key answers" and if necessary "revised key answers" are furnished. The University while considering such aspect is not required to hear the candidates. No candidate can be heard to say that he has any vested right to be awarded mark for the answer subsequently found to be incorrect merely because as per the "key answer" or the "revised key answer", as the case may be, he is entitled to be awarded mark even if his answer is incorrect. Of course where a student is already admitted on the basis of marks awarded and such admission is challenged on the ground that marks, otherwise not awardable, have been awarded, such a person is required to be heard. Where however the process of selection is not complete and "admission is yet to take place, and review" of the disputed questions is sought for, it would be futile to insist that such students should be impleaded as respondents for affording them opportunity of hearing. Indeed it would be impracticable, nay, impossible to afford opportunity of hearing at the stage of considering whether a question is to be deleted or not or whether the " key answer" or "revised key answer" is correct or incorrect. It is well settled that principles of natural justice cannot be placed in a strait-jacket formula and the nature and extent of applicability of principle of natural justice would vary depending upon the exigencies and facts and circumstances of a particular situation.

50. In course of hearing, the learned Senior counsel for the University has indicated that if the question containing more than one correct answer would be evaluated, some doubts may crop up in respect of answer papers wherein the candidates have indicated more than one option in the answer paper itself. I do not find any scope for any doubt in this aspect in view of the clear indication given in paragraph 9 of the Instructions to Candidates in the question paper itself. As per such instructions, if there are multiple shadings for a question, the corresponding question will be treated as unanswered.

51. In course of hearing, many of the learned counsels for the petitioners have expressed their anxiety in the manner in which such wrong questions have crept into the question papers. The Anna University is conducting such examination fior quite some time. Though it is evident that the University has been making all sincere efforts to conduct examination in the best possible manner, unfortunately some avoidable errors have crept in. No doubt there is scope for improvement. It is for the University to find out ways and means to come out with more effective system to eradicate the defects - more particularly the defects in the questions in the Question Bank.

52. In the result, the writ petitions are allowed in part. The University is directed to revalue all the answer papers. Question Nos.27 and

33 in Biology question paper in version code MA-7, question Nos.11, 64 and 77 of version code BS6 relating to physical science shall not be deleted and mark should be awarded to any student who has indicated any of the correct choices. It is further directed question No.76 in version code BS6 should be evaluated and credit should be given to the students who have given the correct option as per the key answer provided by the paper setter. Question No.105 in version code MA-7 is to be revalued and option No.4 should be taken as the correct answer and not option No.3 as indicated by the committee. Question No.117 in version code BS6 should be deleted from consideration. The necessary revaluation may be done within a period of three days from the date of receipt of a copy of this Judgment and revised marks may be furnished to the selection committee immediately to enable the selection committee to finalise the selection. The selection committee may fix suitable dates for counselling. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Index : Yes
Internet: Yes

ksr/dpk

To

1. The Secretary to Government,
Education Department,
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2. The Secretary,
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3. The Secretary,
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